

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BED BATH & BEYOND INC.,

Plaintiff,

Index No.: 07 CIV 7925

-against-

ANSWER

AVIVA SPORTS, INC.,

Defendant.

Defendant Aviva Sports, Inc., for its answer to Plaintiff's Complaint, states and alleges:

1. Defendant admits the allegations of paragraph 1 of the complaint.
2. Defendant admits the allegations of paragraph 2 of the complaint.
3. Defendant admits the allegations of paragraph 3 of the complaint.
4. Defendant admits the allegations of paragraph 4 of the complaint.
5. Defendant admits the allegations of paragraph 5 of the complaint.
6. Defendant denies the allegations of paragraph 6 of the complaint.
7. Defendant denies the allegations of paragraph 7 of the complaint.
8. Defendant denies the allegations of paragraph 8 of the complaint.
9. Defendant denies the allegations of paragraph 9 of the complaint.

10. Defendant denies the allegations of paragraph 10 of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

11. Plaintiff's Complaint fails to state a claim upon which relief will be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

12. Plaintiff failed to mitigate damages.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

13. Plaintiff's suit is barred by the doctrine of waiver.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

14. Plaintiff's suit is barred by the doctrine of estoppel.

WHEREFORE, Defendant demands judgment dismissing Plaintiff's complaint and awarding defendant its costs and disbursements.

Dated: New York, New York
October 18, 2007

WHITE FLEISCHNER & FINO, LLP

By:



EVAN A. RICHMAN (EAR-7507)

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